

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PLUMBERS AND PIPEFITTERS LOCAL UNION :
NO. 719 PENSION TRUST FUND, :
on Behalf of Itself and All Others Similarly Situated, :

Plaintiff, :

vs. :

CONSECO INC., WILLIAM KIRSCH, EUGENE :
BULLIS, MICHAEL DUBES, JAMES HOHMANN, :
JIM PRIEUR, EDWARD BONACH, and JOHN :
WELLS, :

Defendants. :
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09 CIV 6966 (JGK)

NOTICE OF MOTION


PLEASE TAKE NOTICE that, upon the accompanying declaration of Andrew W. Stern, dated March 12, 2010, and the exhibits attached thereto, the accompanying memorandum of law in support of this motion, and any other submissions that shall be made in support of this motion, the undersigned counsel, on behalf of Defendants Conesco Inc., William Kirsch, Eugene Bullis, Michael Dubes, James Hohmann, Jim Prieur, Edward Bonach, and John Wells, will move this Court, before the Honorable John G. Koeltl, at the United States Courthouse, 500 Pearl Street, New York, New York, on a date and time to be determined by the Court, to dismiss the Amended Complaint, in its entirety and with prejudice, pursuant to the Private Securities Litigation Reform Act and Rules 9(b) and 12(b)(6) of the Federal Rules of Civil Procedure.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Scheduling Stipulation and Order No. 3, which was entered by the Court on January 4, 2010, Plaintiff shall notify Defendants on or before April 2, 2010 as to whether Plaintiff intends to file a second amended complaint or oppose this motion. Plaintiff will then have sixty (60) days from such notification to file a second amended complaint or serve opposition papers to this motion. In the event that

Plaintiff serves opposition papers, Defendants will have thirty (30) days from such service to serve their reply papers in further support of this motion. If the Court dismisses the amended complaint or second amended complaint, such dismissal shall be with prejudice.

Dated: New York, New York
March 12, 2010

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– and –

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